

APPENDIX 1

LIST OF APPLICABLE REGULATORY REQUIREMENTS, LICENSES AND PERMITS

Following is a brief description of the applicable regulatory and legal requirements for this EA. Refer to Chapter Three for more detailed information on how the BLM has complied with these regulations and laws.

Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d)

This Act provides for the protection of bald and golden eagles. Also protected are any eagle parts, nests or eggs.

Endangered Species Act of 1973, as Amended

This act provides for the protection and conservation of threatened and endangered species.

Fish and Wildlife Coordination Act (16 U.S.C. 661-666c)

This act authorizes the Secretary of the Interior to: (1) provide assistance to, and cooperate with, Federal, State and public or private agencies, and organizations in the development, protection, rearing and stocking of all species of wildlife resources, thereof, and their habitat. The act has provisions for public shooting and fishing areas and public access. (2) Wildlife surveys of public domain, and (3) accepting donation of land and contributions of funds in furtherance of the purposes of the Act.

Migratory Bird Treaty Act and Executive Order 13186

The Migratory Bird Treaty Act of 1918 prohibits the attempt or actual pursuit, hunt, capture, or kill of any migratory bird, or any part, nest, egg, or products without proper authority such as a legal hunting license or special permit.

Protection of Wetlands (Executive Order 11990)

Management considerations must comply with Executive Order 11990, Protection of Wetlands, which requires federal agencies to minimize the destruction, loss, or degradation of wetlands while preserving and enhancing their natural and beneficial values on federal property.

American Indian Religious Freedom Act of 1978

This act declares that it is the policy of the United States to protect and preserve for the American Indian the inherent right of freedom to believe, express, and exercise traditional religions, including access to religious sites, use and possession of sacred objects, and freedom to worship through ceremonials and traditional rites. The act directs federal agencies to evaluate their policies and procedures to deter-

mine if changes are needed to ensure that such rights and freedoms are not disrupted by agency practices.

Archeological Resources Protection Act (ARPA) of 1979

This act imposes civil penalties for the unauthorized excavation, removal, damage, alteration or defacement of archeological resources.

Environmental Justice (Executive Order 12898)

Federal agencies are required to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low income populations.

Historic Sites Act of 1935

This act directs preservation of historic sites, buildings and objects of national significance for the use and benefit of the public. The act established the basis for National Historic Landmarks program.

Indian Sacred Sites (Executive Order 13007)

This order directs federal agencies to accommodate access to and ceremonial use of Native American sacred sites by Native religious practitioners, to avoid adverse effects to the physical integrity of sacred sites, and, where appropriate, to maintain the confidentiality of sacred sites.

National Historic Preservation Act (NHPA) of 1966, as amended

This act directs federal agencies to take into account historic and archaeological remains during the planning and implementation of federal undertakings (36 CFR 800 and 36 CFR 60). The act requires identification of historic properties during the planning phases of projects, and it provides guidelines for the assessment of scientific and social significance of historic properties, and for the treatment of affected historic properties. The Act is currently the basic federal law for the identification, designation and protection of National Historic Landmarks.

Native American Grave and Repatriation Act of 1990 (NAGPRA)

NAGPRA provides recognition of Native American tribes and native Hawaiian organizations as owners of human remains, funerary and sacred objects, and objects of cultural patrimony.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431)

This act, more commonly known as the Antiquities Act of 1906, protects historic or prehistoric remains or any object of antiquity on federal lands, including both cultural and paleontological remains. The act imposes criminal penalties for unauthorized destruction or appropriation of antiquities. Fifty-one acres, including the pillar land form and lands along the cottonwood gallery, were declared a National Monument by President Clinton on January 17, 2001, under the authority of the Antiquities Act.

Clean Air Act

Under the Clean Air Act, the BLM is responsible for assuring that all its activities comply with local, state, and federal air quality laws, regulations, and standards.

Clean Water Act

The Clean Water Act (CWA) requires that all Resource Management Plans be consistent with state water quality standards and that the BLM provide for state review of the BLM plans and activities.

Floodplain Management (Executive Order 11988)

Any development by the BLM in a floodplain is affected by Executive Order 11988. EO 11988 was enacted to “avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.”

Montana Floodplain and Floodway Management Act (76-5-101 - 406,MCA)

Land use regulations defining the terms, regulations and administrative and enforcement procedures for determining and governing activities within or near the state’s 100-year floodplain. This Act is in compliance with and is more stringent than the National Flood Insurance Program (44CFR 59-79).

Yellowstone County Floodplain Regulations

Promotes the public health, safety, and general welfare, to minimize flood losses in areas subject to flood hazards, and to promote wise use of the floodplain. These regulations and administrative and enforcement procedures are in compliance with and are more stringent than the Montana Floodplain and Floodway Management Act. All floodplain activities performed by the BLM and its contractors will be permitted by and in compliance with these regulations.

Federal Noxious Weed Act of 1974, as amended by Sec. 15 - Management of Undesirable Plants on Federal Lands, 1990.

This act authorizes the Secretary “to cooperate with other federal and state agencies, and others in carrying out opera-

tions or measures to eradicate, suppress, control, prevent or retard the spread of any noxious weed...”

Americans with Disabilities Act Accessibility Guidelines (ADAAG)

In September, 1993, the DOI issued a recommendation that these guidelines be used when implementing the ABA, since they are the most current and most stringent guidelines.

Architectural Barriers Act (ABA), 1968

This act, passed in 1968, requires that all buildings and facilities constructed in whole or in part by federal funds must be accessible to and usable by physically disabled persons.

Section 504, Rehabilitation Act of 1973, as amended

This Act states that all Federal programs, activities and services must be accessible to disabled visitors, including those with physical, hearing, visual and learning impairments.

Uniform Federal Accessibility Standards (UFAS)

These are the official standards for implementing the ABA.

Preliminary List of Potential Permits or Approvals Required

3A Authorization/ 124SPA - Depending on project scope the proposed project would need to comply with the provisions of both **Water Quality** for *Section 3 (a)* authorizations under 75-5-401 (2) M.C.A. and **Stream Protection** under (87-5-501 through 509 M.C.A., inclusive).

A 3A Authorization is required by the DEQ, Planning, Prevention & Assistance Division for unavoidable short-term violations of state surface water quality standards. The 3A requirement may be waived by MT FWP in the 124SPA approval process.

A *124SPA* Stream Protection Permit is required by the MT FWP for work on the bed or banks of the river (typically rip-rap placement, access ramp installation, etc.). Applicability is questionable given the reduced project scope, but the process should be followed in the joint application. This permit is applicable to public agencies; instead of a 310 permit (Montana Natural Streambed and Land Preservation Act, Local Conservation District) that applies to private agencies.

All work would be in accordance with the *Water Quality Act of 1987* (P.L. 100-4), as amended.

Section 402 Permit -This proposed project may require a *Clean Water Act* (33 U.S.C. 1251- 1376) -*Section 402/* Montana Pollutant Discharge Elimination System (MPDES) Permit from the DEQ Permitting and Compliance Division. This is for discharges to ground or surface waters, including dewatering water.

Section 404 Permit -A *Clean Water Act* (33 U.S.C. 1251 - 1376) -*Section 404* permit from the COE would be required for placing fill in wetlands or for the discharge of dredged or fill material associated with construction. The COE would determine if proposed project qualifies for a Nation-wide permit under the provisions of *33 CFR 330*.

Public Water and Waste Water System Approval. DEQ. For the water and wastewater systems. Yellowstone County sanitarian will defer wastewater system approval to DEQ but should be copied records.

Non-degradation of Ground Water, ARM 17.30, DEQ. For the septic system. This will be included as part of the general design submittal to DEQ.

Water well development requires a ***Water Right Permit to Appropriate Water*** and eventual ***Certificate of Water Right***, DNRC. For a well yielding greater than 35 gpm.

Source Water Protection Plan. DEQ. For the public water supply well. Detailed plan documenting potential pollution pathways and modeling after well construction.

Ground Water Under the Direct Influence of Surface Water (GWUDISW) Review. DEQ. For the water supply well. Standard review with well/water system design approval.

Open Cut Mine Permit. DEQ. For the potential on-site materials pit if greater than 10,000 cubic yards.

Floodplain Development Permit. DNRC/Yellowstone County. For building within the 100 year floodplain. Typically administered by the local floodplain administrator. Current contact is Rick Bondy, DNRC. Yellowstone County Floodplain Administrator is James L. Kraft, P.O. Box 35004, Billings, MT 59107.

Storm Water Discharge Permit. DEQ. Required if there are more than 5 acres of construction disturbed area or more than 1 acre if within 100 feet of state waters. For potential discharge of storm water to state waters.

Comply with ***ADA, UBC, UPC, OSHA, etc.***, A/E and construction contractor responsibility.

Comply with ***Uniform Fire Code***. A/E responsibility. Local/State fire control jurisdiction.

Road Approach Construction requires a ***Highway Approach Permit*** from MDT .

Significant Land Disturbance requires Approval of a ***Weed Management Plan***. Yellowstone County Weed Control Board.

Cultural and Historical Resource Approval. State Historical Preservation Office.